

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NEREIDA REQUENA,

Plaintiff,

23-cv-7162 (PKC)

-against-

ORDER

MARIA GBUR, M.D., MONTEFIORE FAMILY
HEALTH CENTER, MONTEFIORE MEDICAL
CENTER, LINCOLN MEDICAL CENTER and
NEW YORK CITY HEALTH AND HOSPITALS
CORPORATION,

Defendants.

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CASTEL, U.S.D.J.

This action was originally filed in the Supreme Court, Bronx County. (ECF 1.) It was removed to federal court by the United States, which asserted that defendants Montefiore Family Health Center, Montefiore Medical Center and Dr. Maria Gbur (the “Federal Defendants”) are employees of the United States Public Health Service for the purpose of plaintiff’s claims. (*Id.*) The United States asserted that claims against the Federal Defendants are governed by the Federal Torts Claims Act (“FTCA”) and that the Federal Defendants therefore have a statutory right to removal. (*Id.*)¹

On December 22, 2023, the Federal Defendants filed a motion to dismiss for lack of subject matter jurisdiction, principally urging that plaintiff did not exhaust her administrative

¹ The docket indicates that no appearance has been made on behalf of defendants Lincoln Medical Center and New York City Health and Hospitals Corporation, and no proof of service upon them has been filed.


remedies under the FTCA prior to commencing this action. (ECF 11.) Plaintiff filed no response to the motion.

On April 12, 2024, a Stipulation and proposed Order of Dismissal was filed by plaintiff. (ECF 15.) It is executed by counsel to plaintiff and counsel to the United States. (Id.) The stipulation seeks to substitute the United States in place of defendants Montefiore Family Health Center and Maria Gbur, M.D. and to dismiss all claims against the United States without prejudice. (Id.) It makes no mention of Montefiore Medical Center, which is one of the Federal Defendants. (Id.)

In a letter also dated April 12, 2024, plaintiff requests that after the stipulation is entered as an Order, the Court enter an additional Order remanding the remaining defendants, including Montefiore Medical Center, to state court, “so that the state claims and action may continue.” (ECF 14.)

The United States is directed to file a letter no later than May 22, 2024, setting forth its views as to the appropriateness of plaintiff’s request to remand this action, including as to any claim against Montefiore Medical Center.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
May 16, 2024